IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1605 OF 2005.

Smt.Bhamavati w/o.Hindurao Survey. ... Appellant.
Versus.
Bhimrao Pandurang Survey. ... Respondents.

Ms.A.R.S.Baxi for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 22nd MARCH, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Appellant. The Appeal is by the original Defendant. The Appellate Court has passed a decree for specific performance of the agreement of reconveyance executed by the Appellant in favour of the Respondent/Plaintiff.

2. The learned Advocate for the Appellant submitted that the execution of the Agreement of reconveyance has not been established and therefore, decree for specific performance could not have been passed.

3. The Appellate Court found that the Appellant did not step into the witness box to deny execution of the document. The Appellate Court found that son of the Appellant entered into the witness box who was admittedly a minor on the date on which the alleged document was executed. The Appellate Court has observed that in the written statement the case of the Appellant was of complete denial of execution of the document.

However, at the time of evidence, a case was made out that the thumb impression of the Appellate was taken on a blank stamp paper. In view of this position, the Appellate Court has accepted the evidence led by the Respondent and has rejected the defence of the Appellant. No fault can be found with the approach of the learned Appellate Court. No substantial question of law arises in the Second Appeal and the same is dismissed.

Judge.